

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

Michael Lee Rose,

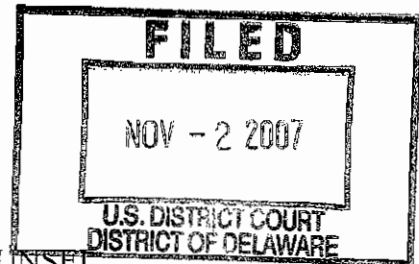
Plaintiff,

v.

First Correctional Medical  
Correctional Medical Services  
Dr. Diaz, et al,

Defendant.

Civil Action No. 06-370-(JJF)



MOTION FOR APPOINTMENT OF COUNSEL

*PD scanned*

Plaintiff Michael Lee Rose pursuant to 28 U.S.C. § 1915,

request this court to appoint counsel to represent petitioner in the above-entitled action for the following reasons:

In deciding whether to appoint counsel for an indigent litigant, the District Court of Delaware articulated standards for evaluating a Motion for Appointment of Counsel filed by a *pro se* plaintiff. See Green v. FCM, 430 F. Supp.2d 383, 387 n. 3 (D. Del. 2006) (citing Tabron v. Grace, 6 F.3d 147 (3<sup>rd</sup> Cir. 1993) and Parhan v. Johnson, 126 F.3d 454 (3<sup>rd</sup> Cir. 1997)). Initially, the Court must examine the merits of a plaintiff's claim to determine whether it has some arguable merit in fact and law. See Parhan, 126 F.3d at 457 (citing Tabron, 6 F.3d 157); accord Maclin v. Freake, 65 F.2d 885, 887 (7<sup>th</sup> Cir. 1981) (per curium) (cited with approval in Tabron and Parhan). Only if the Court is satisfied that the claim is factually and legally meritorious, should it then examine the following factors: (1) the plaintiff's ability to present his own case; (2) the complexity of the legal issues presented; (3) the extensiveness of the factual

investigation necessary to effectively litigate the case and the plaintiff's ability to pursue such an investigation; (4) the degree to which the case may turn on credibility determination; (5) whether the testimony of expert witness will be necessary; and (6) whether the plaintiff can attain and afford counsel on his own behalf.

In support of this motion, the plaintiff avers the following:

1. The plaintiff's does not have the ability to present his own case.
2. The plaintiff is unskilled in the law and the complexity of the legal issues presented in the complaint is beyond plaintiff's abilities to pursue an effective investigation.
3. The plaintiff avers that the case may turn on credibility determination.
4. The plaintiff avers that testimony of expert witnesses will be necessary.
5. The plaintiff can not attain and afford counsel on his own behalf.
6. Appointment of counsel would serve "the best interest of justice" in this case.
7. The plaintiff's allegations if proved, clearly would establish a constitutional

violation because ~~and~~ Defendants did act and knew and Take Part. In Refusing to give me Medical Help for my serious Medical problems. That has led to serious Bodily harm, and mental, severe mental emotional distress. This adds up to Deliberate Indifference.

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For the foregoing reasons, the plaintiff has provided the court with sufficient foundation for the court to appoint counsel in this case.

Dated:

Oct/31/07

Michael Lee Hore

Delaware correctional center  
1181 Paddock Road  
Smyrna, DE 19977

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

_____	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. _____
	)	
	)	
_____, et al,	)	
	)	
Defendant.	)	

ORDER

IT IS HEREBY ORDERED, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
200\_\_, THAT THE ATTACHED MOTION FOR APPOINTMENT OF COUNSEL HAS BEEN  
READ AND CONSIDERED. IT IS ORDERED THAT THE MOTION IS  
HEREBY \_\_\_\_\_.

\_\_\_\_\_  
United States District Court Judge

Certificate of Service

I, Michael Lee Rose, hereby certify that I have served a true

And correct cop(ies) of the attached: \_\_\_\_\_

\_\_\_\_\_ upon the following  
parties/person (s):

TO: United States District Court  
844 N. King St, Lock Box 18  
Wilm. Del 19801  
3570

TO: \_\_\_\_\_

TO: \_\_\_\_\_

TO: \_\_\_\_\_

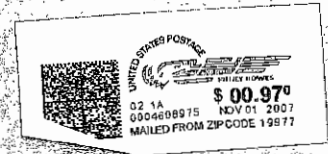
BY PLACING SAME IN A SEALED ENVELOPE, and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 31 day of Oct, 2007

Michael Lee Rose

TM: Michael Lee Rose  
SB# 071820 UNIT 7-2-38  
DELAWARE CORRECTIONAL CENTER  
1181 FADEAWAY ROAD  
SMYRNA, DELAWARE 19977

MS  
X  
MAX



United States District Court  
844 N. King St. 1st Fl.  
Wilmington, Del. 19801  
3570